

BOARD OF DIRECTORS – ACTION SUMMARY
Friday, August 11, 2006 – 8:00a.m.

Administration Building
2101 Hurley Way, Sacramento, CA

CALL TO ORDER

The meeting was called to order by President Engellenner. Board Members present: Duveneck, Engellenner, Granados, Jones, Kelly, Lawson, Trujillo, Valley. Director Goold, absent. Staff: Fire Chief Mette, General Counsel Margarita, Board Clerk Tilson.

Also present: Michael Dean – Board Counsel; Ruthann Ziegler – District Counsel

**PUBLIC OPPORTUNITY TO DISCUSS MATTERS OF PUBLIC INTEREST WITHIN
DISTRICT JURISDICTION ON ITEMS SCHEDULED ON THE AGENDA**

None

ACTION ITEMS (S):

**1. Hearing of Appeal by George B. Appel on Employment Termination—
(Engellenner)**

- Appellant not present. He was informed by mail and yesterday [by phone] that the meeting will commence at 8:00 a.m. today.
- Michael Dean stated he was appointed as the attorney to represent the Board this morning. Another attorney from his office, Ruthann Ziegler, will present the District's case.

As the President pointed out, the appellant was not present. Recommended a delay in the scheduled start of the hearing to allow further time to appear. Failure to appear is abandonment of the appeal in his view.

Following a recess, the meeting reconvened at 8:20 a.m.

- Announced the absence of the former employee, George Appel.
- Upon the advice of counsel, Fire Chief Mette to proceed with his side of the termination.
- Attorney Ruthann Ziegler stated she was the legal counsel assisting Fire Chief Mette in the presentation of this matter.

Covered two basic points relative to adequate notification of George Appel on the scheduled hearing and the substance of Fire Chief Mette's position in terms of terminating Mr. Appel's employment with the District.

Binders were distributed to each Board member. The entirety of the information in the notebooks was put into evidence as part of this hearing to substantiate Fire Chief Mette's position.

- Adequate notification was contained under Tab 2 – an August 4, 2006, letter from the District marked as Hand-Delivered to Mr. Appel indicating notice of this morning's hearing at 8:00 a.m., with a copy of the agenda attached.

Larry Stanton testified that he personally served this notice to Mr. Appel on August 4, 2006.

For the record, Board Clerk Charlotte Tilson at the direction of President Engellenner, contacted Mr. Appel's residence by phone. Notes made contemporaneously and read into the record were admitted as part of the evidence of this morning's hearing. [Conversation with Kathy Appel on August 10, 2006 at 5:30 p.m., reconfirming this morning's meeting.]

- The second issue is whether there was an adequate basis for the Fire Chief's decision to terminate Mr. Appel.

Overview provided by Ms. Ziegler: job description under Tab 18 for Deputy Chief Administration, and read the key points under the Job Summary and Essential Functions Items 2, 5, 6, and 8; Tab 19 – policy concerning use of e-mails and information on the computers; Tab 21 – Electronic Mail Procedures.

An 18-page statement was distributed and read into the record by Fire Chief Mette stating that Mr. Appel was terminated on May 19, 2006, for numerous violations of District policies involving the distribution of sexually explicit, obscene, intimidating, defamatory, discriminatory, or otherwise unlawful or inappropriate use of the District's e-mail system and the Internet.

- In summary, Ms. Ziegler stated the number of photos before the Board is in clear violation of District policies. In light of evidence presented, Fire Chief Mette made a valid decision to terminate Mr. Appel's employment with the District.
- Director Duveneck stated the material was disgusting and inappropriate but felt that other options could have been taken prior to a firing.
- For the record, Attorney Dean stated that an "At Will" employee is an employee who serves at the complete discretion of the appointing authority who may release that employee from employment at any time, for any reason, or for no reason. This is the primary distinction between an "At Will" employee and an employee in the bargaining unit who can only be released for cause. In this particular case, the Fire Chief provided a rationale for releasing the employee from employment but it was not required since he can release an "At Will" employee at any time.
- Director Jones emphasized that this sets an appropriate standard of enforcement and this scrutiny for all employees continues.
- **Board Action:**
Granados/Trujillo – Sustain the Fire Chief's position and uphold the termination of Mr. Appel's employment as Deputy Chief at Sacramento Metropolitan Fire District. ROLL CALL: Directors Trujillo, Kelly, Jones, Granados, Lawson, Valley, Engellenner, AYE. Director Duveneck, NO. Director Goold, absent. Motion passed.

[Recessed with Director Jones departing]

2. Board Meeting Schedule—(Engellenner)

- President Engellenner stated we have some conflicts of meeting on the second and fourth Wednesday of every month. Director Trujillo changed employers and no longer can make Wednesdays. Originally considered changing it back [first and third Wednesday] but it would conflict with Directors Jones and Kelly.

It was recommended that the meeting dates be moved from the second and fourth Wednesday to the second and fourth Thursday of each month, which appears to accommodate everyone.

- **Board Action:**
Granados/Trujillo – Change the meeting days from Wednesday to Thursday and meet on the second and fourth Thursday of the month, beginning this month. ROLL CALL: Directors Duveneck, Trujillo, Kelly, Granados, Lawson, Valley, Engellenner, AYE. Directors Goold and Jones, absent. Motion passed.

ADJOURNMENT – The meeting adjourned at 9:15 a.m.

H. Peter Engellenner, President

Ray Trujillo, Secretary

Charlotte Tilson, Clerk of the Board